

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
 Advanced Television Systems)
 and Their Impact upon the) MM Docket No. 87-268
 Existing Television Broadcast)
 Service)
)

To: The Commission

OPPOSITION TO PETITION FOR RECONSIDERATION

Independence Television Company ("Independence"), licensee of television station WDRB-TV, NTSC Channel 41, Louisville, Kentucky, by its attorneys, and pursuant to 47 C.F.R. § 1.429(f), hereby opposes the Petition for Reconsideration ("Petition") of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), filed June 13, 1997 by South Central Communications Corporation ("SCCC"). SCCC proposes a change to the DTV Table of Allotments with respect to WDRB-TV without adequate support or analysis of alternatives. Independence wholly supports the Commission's movement toward full implementation of digital television ("DTV") and applauds the Commission's efforts to bring this new television service to the American public. Accordingly, Independence urges the Commission to reject attempts by low power television ("LPTV") stations — such as those licensed to SCCC — at this late stage to circumvent the full protection of full-service broadcasters.

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WDRB-TV was assigned DTV Channel 49 in the *Sixth R&O*.^{1/} According to the Petition, low power television station W49AX, Channel 49, Louisville, Kentucky, as licensed to SCCC, would be displaced by the operation of WDRB-TV's DTV transmissions. In its petition, SCCC requests that WDRB-TV's DTV channel be reassigned to Channel 51 and contends that this reassignment would be consistent with the Commission's standard for modifying the DTV Table — *i.e.*, that the modification result in "no new interference."

SCCC's purported showing that no new interference would be created by WDRB-TV's proposed reassignment is, however, utterly inadequate. It relies solely on a list, generated by another petitioner, of potential alternative channels that allegedly would not cause new or additional interference. SCCC provides no contours, no maps and no comparison of alternatives to confirm that the modification would, in fact, cause no new interference. In effect, SCCC is attempting to use a completely unsupported list of supposed alternatives as *prima facie* evidence that its proposed modification is acceptable and to shift to WDRB-TV the burden of demonstrating that the proposal is unacceptable. This burden-shifting approach would be inappropriate even if the petitioner were a full-power station. It is particularly inappropriate where, as here, the petitioner is a low power station. The Commission has consistently made clear throughout this proceeding that LPTV stations are to be accorded secondary status.

^{1/} In another petition, WDRB-TV sought to immediately maximize its DTV facilities. (See, Petition for Reconsideration, *Sixth Report and Order*, MM Docket No. 87-268, filed by Blade Communications, Inc., June 13, 1997). A new DTV allotment with respect to WDRB-TV was not sought.

Independence believes that a more appropriate — and likely more successful — approach for SCCC would be for W49AX to identify an alternate available channel for itself and provide an adequate showing that such a proposal would create no new interference. The Commission's DTV Table was generated under the guiding policies of minimizing interference between and replicating coverage of full-power broadcasters. Rather than disturbing the Commission's optimized approach by asking full-power broadcasters to find new DTV channels, LPTV stations should identify available allotments for their own use. The Commission has gone to some effort in providing procedures for displaced LPTV stations to do just that in an attempt to mitigate the effect of the transition on low power stations.^{2/} Moreover, given the smaller coverage areas of LPTV stations, they are better positioned than full-power stations to find available allotment slots in a tight spectrum market. Attempts to subordinate full-power broadcasters to LPTV demands for allotment modifications to full-power broadcasters should be rejected outright even if other allotments are unavailable to the low power station.

In any event, SCCC's unsupported assertion that its proposal would result in no new interference is dubious on its face. The use of channel 51 in Louisville by WDRB-TV would raise co-channel spacing concerns with Dayton, OH and Hendersonville, TN, as well as adjacent-channel spacing concerns in Owenton, KY (Channel 52). If Channel 51 were superior -- or even equivalent to Channel 49 in minimizing interference, the computer program would have probably selected it. The proposed reassignment, however, would


^{2/} See, *Sixth R&O* at ¶¶ 144-147.

likely generate new interference which could in itself result in a stream of subsequent requests for modification by affected broadcasters.^{3/}

In sum, while Independence is sympathetic to efforts to mitigate the effect of the DTV transition on secondary, LPTV stations, SCCC's approach is not the way to achieve this objective. If SCCC wishes to remedy its potential displacement, it should find a feasible alternative for itself before seeking to force full-power stations to move to other channels and likely initiating a ripple of new interference across adjacent communities. Furthermore, it should provide concrete evidence to show that any proposed modification — whether of its channel assignment or that of another station — would, in fact, result in no new interference. For the foregoing reasons, Independence requests that the Commission reject the SCCC Petition for the reassignment of Channel 51 as the DTV allotment for WDRB-TV in Louisville, Kentucky.

Respectfully submitted,

INDEPENDENCE TELEVISION COMPANY

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^{3/} Additionally, the proposed higher channel would require more power in order for WDRB-TV to replicate coverage. Such associated increased costs forced upon WDRB-TV by a low power station would be wholly inconsistent with LPTV's secondary status to full power broadcasters.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Opposition of Independence was sent by first-class mail, postage prepaid, this 18th day of July, 1997, to each of the following:

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